

REMARKS

The Office has required restriction in the present application as follows:

- Group I: Claims 1-8, drawn to a metal collector and method of collecting a metal using the metal collector; and
- Group II: Claims 9-17, drawn to a process for eluting and recovering a metal. (Applicants assume that the indication of this as Group III in the Office Action was merely a typographical error).

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

The Office has asserted that the inventions of Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding technical features. The Office asserts that the metal collector of Group I has alternate layers of fibrous metal collecting material with a spacer, and that the invention of Group II does not have the same requirement. Applicants note that in the International Search Report unity of invention was not found to be lacking. Applicants further note that PCT Article 27(1) states that no national law shall require compliance with requirements relating to the form and contents of the International Application different from or additional to those which are provided by Patent Cooperation Treaty and Regulations. Applicants therefore traverse the requirement for restriction on the grounds that the Office has not applied the same standard of unity of invention as that applied in the International Search Report. Accordingly, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Applicants therefore request the withdrawal of the restriction requirement.

Application No. 09/926,382

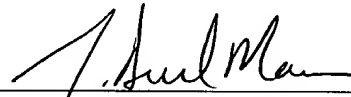
Reply to Office Action of December 31, 2003

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction.

Applicants therefore request that the requirement for restriction be withdrawn.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "J. Derek Mason", is written over a horizontal line.

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